IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE SEVENTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

-

WRIT PETITION NO : 23536 of 2004

Between:

R.Pitchaiah S/o.Kotilingaiah, Fair Price Shop Dealer,
Tondapi Village, Muppalla (M), Guntur Dist.

..... PETITIONER

AND

1 The Joint Collector, Guntur, Guntur District.
2 The Revenue Divisional Officer, Guntur,
Guntur District.
3 The Mandal Revenue Officer,
Muppalla Mandal, Guntur District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondent in rejecting the stay petition of the petitioner vide order dated 24-11-2004 and in not disposing of the appeal pending before him in File No.53/2004-S7, which was filed against the order of suspension passed by the 2nd respondent in Rc.5839/2004-B, dt 21-10-2004, is illegal, arbitrary, improper and against the principles of natural justice.

Counsel for the Petitioner:MR.K.SRINIVAS

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court, at the stage of admission, made the following :

ORDER:

The authorization of the petitioner, in respect of a fair price shop, was suspended by the 2nd respondent, through an order dated 21.10.2004. On the same day, he issued a Show-Cause Notice to the petitioner framing certain charges. Petitioner preferred an appeal before the 1st respondent, aggrieved by the order of suspension. He also filed an application for stay. The 1st respondent rejected the stay, through order dated 24.11.2004. Hence, this writ petition.

Heard the learned counsel for the petitioner and the learned Government Pleader for Civil Supplies.

The allegation against the petitioner is that he is selling the essential commodities at higher price. It was also alleged that he did not display the price-list, timings board, and did not maintain adequate stocks from 01.10.2004 to 14.10.2004. Petitioner had pleaded several grounds while seeking interim order. The 1st respondent was not satisfied and rejected the application for stay.

Prima facie, this Court finds that the same types of charges are being levelled against the dealers of fair price shops uniformly, for suspending their authorizations. The allegations, such as, non-display of price-list, timings board etc., are not so serious as to warrant suspension.

No basis is indicated, in respect of the allegation, relating to selling the commodities

at a higher price. If the unverified and vague allegations, as these, constitute the basis for suspension, virtually no dealer can be spared. Though it is the prerogative of the State to choose its own dealers, it should not be forgotten that once a dealer is appointed, his tenure is secured by the relevant Rules, and any interference with the same can be on the strength of valid material.

For the foregoing reasons, the writ petition is allowed and the order of suspension passed against the petitioner shall stand stayed, pending disposal of the appeal by the 1st respondent, and he shall be entitled to continue as fair price shop dealer. No order as to costs.

_____

L.NARASIMHA REDDY, J

Dated : 17th December, 2004

Note: Office to furnish copy

In two days.

(B/o.)

Ts

To

1 The Joint Collector, Guntur, Guntur District.
2 The Revenue Divisional Officer, Guntur, Guntur District.
3 The Mandal Revenue Officer, Muppalla Mandal, Guntur District.

4 Two C.Cs. to the Government Pleader for Civil Supplies, High Court of A.P., Hyderabad. (OUT)

5 Two C.D. copies.